

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.**  
**Jason Lee Van Dyke on 08/31/2020**

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF TEXAS  
3 SHERMAN DIVISION

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6 JASON LEE VAN DYKE, )  
7 Plaintiff, )  
8 vs. ) 4:18-CV-247-ALM  
9 THOMAS CHRISTOPHER RETZLAFF, )  
a/k/a DEAN ANDERSON, d/b/a BV )  
10 FILES, VIA VIEW FILES, LLC, and )  
11 VIAVIEW FILES, )  
12 Defendants. )

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13 VIDEO DEPOSITION OF  
14 JASON LEE VAN DYKE  
15 August 31, 2020

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18 DEPOSITION OF JASON LEE VAN DYKE, produced  
19 as a witness, duly sworn by me at the instance of  
20 the DEFENDANTS, was taken in the above-styled and  
21 numbered cause on August 31, 2020, from 10:05 A.M.  
22 to 5:07 P.M., before BRANDON D. COMBS, CSR, RPR, in  
23 and for the State of Texas, reported by computerized  
24 machine shorthand, at 110 South US 287, Decatur,  
25 Texas.

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.**

**Jason Lee Van Dyke on 08/31/2020**

**Page 15**

1 Q. Okay. The Second Court of Appeals' first  
2 opinion in McGibney versus Rauhauser was issued in  
3 2014. Is it possible that you knew who Retzlaff was  
4 as far ago as in 2014?

5 A. It's possible I had heard his name. I  
6 certainly hadn't done any research on him. So it is  
7 certainly possible that I had heard about it then.

8 All I know is that when I saw his name in  
9 2017, what I can recall is I'd definitely heard his  
10 name before, and when I Googled about the -- of who  
11 he was, that was one of the first things to come up.

12 Q. Okay. And when you said saw his name in  
13 2017, you were referring to the grievance that was  
14 filed against you?

15 A. Yes, sir, that's correct.

16 (Discussion off the record.)

17 BY MR. DORRELL:

18 Q. Have you ever met James McGibney?

19 A. Not in person, no.

20 Q. How often have you talked to him on the  
21 phone over the last two or three years?

22 A. Well, in -- from the time I had first  
23 heard of Mr. Retzlaff's name, I would say from 2018  
24 until, I'd say mid 2019, late 2019, a couple times a  
25 month, maybe.

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.**

**Jason Lee Van Dyke on 08/31/2020**

**Page 16**

1 More recently, as Mr. Retzlaff has become  
2 more aggressive with both of us, it's been closer to  
3 once or twice a week.

4 Q. Okay. Can you specify what you mean by  
5 more aggressive?

6 A. Well, as Mr. Retzlaff has been  
7 aggressively trying to take Mr. McGibney's  
8 deposition in this case, in several other cases.

9 Since Mr. Retzlaff has posted the address  
10 to Mr. McGibney's new residence, which my  
11 understanding was he had tried to keep away from  
12 Mr. Retzlaff since that's -- that's what I meant.

13 I can say certainly since Mr. Retzlaff  
14 filed the now-dismissed protective order against me  
15 in March of 2020, we certainly began speaking more  
16 often.

17 Q. Okay. You understand you have a duty to  
18 amend disclosures to disclose the addresses and  
19 contact information of persons that you've listed as  
20 having knowledge of relevant facts in this lawsuit;  
21 right?

22 A. I do. I did not know of his new address  
23 until afterwards, however. He did not tell me that  
24 he had moved to Texas.

25 Q. Why would you have said that he was trying

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.**

**Jason Lee Van Dyke on 08/31/2020**

**Page 40**

1 and say, hey, you'll never believe what was filed in  
2 a -- in the Tarrant County case. And I'll just say,  
3 well, he filed this in this case.

4 And stuff like, oh, well, it's too bad  
5 that law enforcement won't do something about this  
6 guy; he belongs in prison. Things of that nature.  
7 Just updates as far as both of our proceedings that  
8 involve Mr. Retzlaff or his cronies.

9 Q. Okay. Just curious, have you spoken to  
10 Mr. McGibney today?

11 A. No.

12 Q. How about yesterday?

13 A. Yeah, he called me to wish me good luck in  
14 the deposition today.

15 Q. Okay. Did you talk about anything else?

16 A. No. He actually called me while I was  
17 having dinner with my mother yesterday, so I didn't  
18 -- I didn't speak to him long. I said -- I thanked  
19 him and congratulated him on what he said was a win  
20 in Tarrant County on Friday.

21 And that was all -- that's all we said.

22 Q. Okay. Consider him a friend?

23 A. Yeah, I do.

24 Q. In your opinion is he supportive of your  
25 position in the lawsuit you're now testifying in?

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.**

**Jason Lee Van Dyke on 08/31/2020**

**Page 180**

1 is that right?

2 A. That's correct.

3 Q. No one else; we can forget about anybody  
4 else?

5 A. Yeah, I won't be calling anyone else.

6 Q. All right. What -- is there some other  
7 knowledge of James McGibney that you intend to call  
8 in to testify about?

9 A. I don't intend to call James McGibney to  
10 testify for any reason whatsoever.

11 Q. Is -- can you explain to me why that seems  
12 to have changed since the date that my office tried  
13 to obtain a deposition of him?

14 A. Actually, it -- because I learned that  
15 Mr. McGibney was involved as a material witness in  
16 an FBI investigation of Mr. Retzlaff.

17 And I want to make absolutely, positively,  
18 100 percent sure that nothing I do in this case  
19 operates in such a manner as to jeopardize that FBI  
20 investigation in any way, shape, or form.

21 Q. Okay. So I don't know what that would be,  
22 and you don't have to guess at it.

23 But suffice to say, you have determined  
24 that the risk of that you might do something to  
25 compromise that investigation is enough that you

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.**

**Jason Lee Van Dyke on 08/31/2020**

**Page 182**

1 MR. DORRELL: Okay. Let's take a short  
2 break, please.

3 THE VIDEOGRAPHER: We're off the record at  
4 4:49.

5 (Recess taken.)

6 THE VIDEOGRAPHER: We're on the record at  
7 4:54.

8 THE WITNESS: He just announced we're back  
9 on the record, Mr. Dorrell.

10 BY MR. DORRELL:

11 Q. Thank you for telling me. I couldn't hear  
12 one -- a peep.

13 A. I'm aware. We're doing the best we can  
14 here.

15 Q. Okay. Do you have any idea why there  
16 would already be comments posted on the BV Files  
17 blog about Mr. Retzlaff being present here for this  
18 deposition today?

19 A. Pardon?

20 Q. Do you have any idea who might have posted  
21 comments on the BV Files blog already about  
22 Mr. Retzlaff being present and in attendance for  
23 your deposition?

24 A. No idea.

25 Q. Have you talked to James McGibney today?

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.**

**Jason Lee Van Dyke on 08/31/2020**

**Page 183**

1 A. Just now, yes.

2 Q. Did you text him or speak to him?

3 A. I texted him.

4 Q. And what did he say?

5 A. He asked me if it was still going. I  
6 said, in response, I think we're trying to set a new  
7 record and Dorrell is much smarter than his client.

8 Q. Well, thank you for not saying that my  
9 technological incompetence slowed us down for an  
10 hour.

11 A. You asked a question, I answered it.

12 Q. Kind answer. Could have been an ugly one.  
13 What has McGibney told you about the FBI  
14 trying to quash his deposition?

15 A. He hasn't personally told me anything  
16 outside of what's been filed in the court. When  
17 that document was filed, it was as big a surprise to  
18 me as it may have been to you because I was  
19 blindsided by it.

20 Q. Well, there's obviously the information in  
21 the Wescovich affidavit.

22 A. Well, yes. And based on  
23 Special Agent Wescovich's communications or lack  
24 thereof with me, I was actually especially surprised  
25 to see that Special Agent Wescovich was involved.

**JASON LEE VAN DYKE vs THOMAS CHRISTOPHER RETZLAFF, ET AL.****Jason Lee Van Dyke on 08/31/2020****Page 192**

## 1 CERTIFICATE OF REPORTER

2 I, BRANDON D. COMBS, a Certified Shorthand  
3 Reporter, hereby certify that the witness in the  
4 foregoing deposition was by me duly sworn to tell  
5 the truth, the whole truth, and nothing but the  
6 truth in the within-entitled cause;

7 That said deposition was taken in  
8 shorthand by me, a disinterested person, at the time  
9 and place therein stated, and that the testimony of  
10 the said witness was thereafter reduced to  
11 typewriting, by computer, under my direction and  
12 supervision;

13 That before completion of the deposition,  
14 review of the transcript was requested. If  
15 requested, any changes made by the deponent (and  
16 provided to the reporter) during the period allowed  
17 are appended hereto.

18 I further certify that I am not of counsel  
19 or attorney for either or any of the parties to the  
20 said deposition, nor in any way interested in the  
21 event of this cause, and that I am not related to  
22 any of the parties thereto.

23 DATED: September 10, 2020

24   
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25 BRANDON D. COMBS, RPR, CSR 10927